

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 7. ADJUDICATIONS

PREAMBLE

1. **Sections Affected** **Rulemaking Action**

 R7-2-708 Amend

2. **The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

 Authorizing Statute: A.R.S. §15-203(A)

 Implementing Statute: A.R.S. §15-203(A)(20)and (23)

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

 None. Notice of Rulemaking Docket Opening approved at same meeting as Notice of Proposed Rulemaking.

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

 Name: Christy Farley,

 Executive Director, State Board of Education

 Address: 1535 West Jefferson, Room 418

 Phoenix, AZ 85007

 Telephone: (602) 542-5057

 Fax: (602) 542-3046

E-mail: cfarley@ade.az.gov

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The State Board of Education is proposing elimination of the default proceeding in the administrative hearing process administered by the State Board of Education Professional Practices Advisory Committee upon failure of an individual to appear at a hearing or review.

The default hearing currently in place does not provide any additional safeguards for certificate-holders and the State Board has found that it serves as an obstacle in providing timely disposition of administrative hearing decisions. The State Board of Education Investigative Unit exhausts all means of contacting certificate-holders to inform them of a scheduled hearing on their certificate(s). Currently, the Investigative Unit notifies individuals by certified mail or through a process server of any hearings scheduled on their certificate(s). The existence of a default hearing that would be noticed in the same manner does not assist individuals in gaining notice of a subsequent hearing on their certificate(s), but rather only delays the process. In addition, legislation has been proposed and is moving through the legislative process to require certificate-holders to notify the Arizona Department of Education of changes in their address. The Investigative Unit will then use the last known address as provided by the certificate-holder to notify an individual of any hearing scheduled on their certificate(s). This system is used by several other regulatory agencies and is more efficient and reflects the partnership that exists between certificate-holder and licensing entity.

6. **A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to**

rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable.

7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

The proposed rules will not diminish any previous grant of authority of a political subdivision of this state.

8. **The preliminary summary of the economic, small business, and consumer impact:**

The rules as proposed are not expected to have any economic impact on small businesses or consumers. A possible cost savings may occur for the State Board of Education in reduced administrative hearings as a result of not having to hold default proceedings at the Professional Practices Advisory Committee, saving the time of our volunteer members who receive per diem and travel reimbursement and the time of our staff and legal counsel in preparing for such hearings.

9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Christy Farley,
Executive Director, State Board of Education

Address: 1535 West Jefferson, Room 418
Phoenix, AZ 85007

Telephone: (602) 542-5057
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E-mail: cfarley@ade.az.gov

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding on the proposed rulemaking is scheduled as follows:

Date: May 12, 2004
Time: 9:00 AM
Location: State Board of Education
1535 West Jefferson, Room 417
Phoenix, Arizona 85007

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class or rules:

Not applicable.

12. Incorporations by reference and their location in the rules:

None.

13. The full text of the rules follows:

~~R7-2-708. Failure to appear; default~~

- ~~A. If, after being served with a notice of hearing, a party fails to appear at the time and place of any proceeding in a contested case, a proposed default order that includes a statement of the reasons to default the nonappearing party may be served upon all parties.~~
- ~~B. Within seven days after service of a proposed default order, the party against whom it was issued may file a written request to deny the proposed default order, including a statement of the reasons it should be denied. The hearing body shall rule upon request to deny the proposed default order within 30 days of the date of filing.~~
- ~~C. The hearing body may enter the default order after expiration of the time specified in subsection (B) of this rule.~~
- ~~D. After entering a default order, the hearing body may conduct any further proceedings necessary to complete the contested case without the defaulted party and shall determine all issues in the case, including those affecting that party.~~